P10.

C.F. 14.

1942

(K)

Department of Revenue

OFFICE Board of Revenue

STATION Salem

Mis No. 2076 (S)

Dated 22. 12. 42

C/2056/42

DISPATCHED
23 DEC 1942
23/12

Urgent

Pages in the file C.F. 40
NF 14

(SUBJECT.)

Escheat. S. Kanara - Personal and real properties - Mangalore town - Casba bazaar village - Deceased Chennabasappa shetty. Further report submitted.

G.F. 71.

Back Papers.

Dis.	No.	Department. / Series.	Date.	Dis.	No.	Department. / Series.	Date.
		B.O. [illegible] 1416 / [illegible].5.41					

Further Papers.

Dis.	No.	Department. / Series.	Date.	Dis.	No.	Department. / Series.	Date.
		B.O. [illegible] 986 / 13.8.43					

Certified that there are no forward and back papers.

[illegible] 31.12

[illegible]
Senior Superintendent

Very Urgent.
Ref. A3-2464-42.

South Kanara Collector's Office,
Mangalore, 16th August 1942.

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

OFFICE OF THE BOARD OF REVENUE
22 AUG 1942
MADRAS

To

The Secretary to the Board,
Land Revenue and Irrigation, Madras.

Sir,

ESCHEAT - Personal and real properties - Mangalore Town - Casba Bazaar village - Deceased Chennabasappa Shetty - Report - submitted. Inadvertent Cases for

******

In the town of Mangalore there was a wargdar, Chennabasappa Shetty by name. He possessed personal properties worth about Rs.200/- and real properties worth about Rs.75,000/-. He died issueless on 25-3-1942, a male child that had been born to him having predeceased him by about a year. His widow Gangamma, also expired on 25-5-1942. The deceased - husband and wife - belonged to the Lingayat Jangam Community, which is Governed by the Mithakshara law of succession.

2. As enquiry showed that they were the only surviving members of the family, the Tahsildar, Mangalore, took possession of the personal properties of the deceased. They were subsequently handed over to the Subordinate Judge of Mangalore, who has taken steps in his court Escheat Case No. 1 of 1942 to dispose of them in accordance with the provisions of clause 7 of Section 16 of Regulation III of 1802.

3. While the enquiry regarding the escheat of immovable properties was in progress, I received a suit notice under Section 80 of the Civil Procedure Code from Sri B. Vaikunta Baliga, B.A., B.L., Vakil, Mangalore, purported to be on behalf of his clients, one Shivalingappa Shetty and his younger brother minor Shiva Shetty, alleging that his clients are the nearest surviving sapindas and the only heirs entitled to succeed to the properties of the deceased. The notice-giver further threatens to sue the Government, if all the properties of the deceased are not immediately handed over to his clients with all rents and other mesne profits collected by the Government from the said properties.

4. The records of enquiry in the matter contained in this office current file C.No. 2464-42 are herewith enclosed. The suit notice and other enclosures received from Sri B.Vaikunta Baliga on behalf of the alleged claimants to the properties and the Tahsildar's detailed report in the matter are at pages 39 to 104 and 223 to 226 of the file respectively

5. No authenticated genealogical table relating to the heirs of the deceased could be secured as there is none belonging to the community of the deceased residing in Mangalore. The Tahsildar has, therefore, based his report on a will executed by the father of the deceased last male holder in favour of his wife. A copy of this will is at pages 207 to 212 of the records of enquiry. The recitals in the will show that Lingappa Shetty, the father of the deceased, had only two undivided brothers, Bhadraya and Basappa by name, both of whom died issueless and that there were no claimants to the properties except himself. However, subsequent to the execution of the will, Lingappa Shetty, begot two male children, namely Chennabasappa and Sangappa, and a daughter named Nagamma. The youngest son Sangappa and the daughter Nagamma having died leaving no issue, the eldest son Channabasappa Shetty became the only surving lineal descendant. This Channabasappa Shetty and his

widow Gangamma having died leaving no legal heirs, the family has become extinct, with the result that the properties left by them are liable to be escheated to Government.

6. The notice-giver has produced an unauthenticated genealogical table (page 47 cf.) purporting to show that his clients are the heirs of the deceased. He tries to establish ~~their~~ that Lingappa Shetty's father Sangayya Shetty (No. 5 in the genealogical table at page 47 cf.) and his clients' great-grand father's younger brother Sangayya Shetty are one and the same person. There is no direct evidence to prove this contention of the notice-giver. The evidence adduced by him in support of his contention is that the property which was allotted to Sangayya Shetty, by the partition deed dated 27-5-1852, executed between Channappa and Sangaya, Nos. 3 and 5 respectively, in the genealogical table at page 47 cf., is the same as that in which the deceased Channabasappa Shetty lived and died. But the report of the Tahsildar shows that, according to the village accounts and the description of the property as given in the partition deed, the properties are different. The claim of the notice-giver's clients to the properties left by Channabasappa Shetty and Gangamma cannot, therefore, be easily conceded and the case appears to be a fit one for opposing the claims of the notice-giver's clients in the Civil Court

7. I consulted the Government Pleader, Mangalore, in the matter. In his letter, Ref. No.A-537/42, dated 9-8-1942, he has stated that it is plain that the properties escheat to the Crown and that the threatened suit can be resisted. A copy of the letter of the Government Pleader cited above is enclosed. Having agreed with the view of the Government Pleader, I have issued instructions to the Tahsildar to take charge of all the real properties of the deceased, to take proper care of, or lease them wherever necessary and to collect the rent both arrears and current due in respect of them as required by the instructions contained in para 5 of B.S.O.No. 197. I have also issued instructions to the Government Pleader, Mangalore, to appear before the Court of the Subordinate Judge of Mangalore, on 15-8-1942 on behalf of the Government, to watch the proceedings of the Court in Escheat Case No. 1 of 1942 relating to the personal properties of the deceased and contest the alleged claims of the notice-giver's clients as prescribed in para 1 of B.S.O.No. 197. I shall submit my further report regarding the escheat of the real properties in due course after publishing the gazette notice prescribed in B.S.O.197(5) and disposing of the claims, if any, received by me in response to the said notice. Meanwhile, I solicit the favour of Board's orders to record the said suit notice of the alleged claimants

8. Enquiry shows that there are some civil suits pending in respect of the estate of the deceased. S.C.Suit No. 61/41 on the file of the Subordinate Court, Mangalore, and A.S.No.110/42 on the file of the District Court are two of them. In these two cases, I have received notices, in S.I.A.No. 42/42 and R.I.A.194/42 respectively, to show cause why the Province of Madras represented by the Collector of South Kanara may not be brought on record as the legal representative of the deceased defendant and respondent respectively. The Government Pleader, Mangalore, whom I consulted on this point also, states that the Province of Madras should consent to its being impleaded as the legal representative of the deceased. Though the exact nature of the suit and the appeal are not known to me now, the Government will have virtually to set up defence in those cases when the Province of Madras is impleaded as the legal representative of the deceased. I shall ascertain and report to the Board of Revenue, in due course, the exact subject matter of the suit and the appeal; but meanwhile, I request the favour of Board's orders whether the Province of Madras may be impleaded as the legal representative of the deceased in the said suit and appeal, and if so, the draft form of the counter contained in para 3 of the Government Pleader's letter Ref.No.A-537/42, dated 9-8-1942 may be approved.

9. The two petitions viz., S.I.A.42/42 and R.I.A. 194/42, ----- referred in the previous paragraphs, stood posted to 15-8-1942 for filing the counter of the Government. As the Board's orders ---- could not be obtained earlier, I have instructed the Government --- Pleader, Mangalore, to obtain adjournments in those cases. I, --- therefore, request the favour of Board's urgent orders in the matter

10. I also request the Board to give me permission to consent to -- the Province of Madras being impleaded as the legal representative of the deceased in other similar petitions, suits or appeals in -- which the estate of the deceased is involved, in order that further correspondence in respect of similar notices from the Civil Courts, received by me in connection with other pending suits may be ------ minimized.

For Collector.
17.8.42

Enclosures:-

(1) This office current file C.No.2464-42, pages 1 to 156, 207 to 215 and 219 to 246.

(2) Copy of Government Pleader's letter Ref.No.A-537-42, dated 9-8-1942.

F.W.S 4

Subject as at p 1 Cf.

From the Coll. of S. Kanara. No A3. 2464-42 Dt 14.8.42

Refer l 2056/42-1 Dt 8.9.42

10 SEP 1942

The Coll. is requested to state urgently how the properties proposed to be escheat can possibly be treated as such when Gangamma, wife of the deceased Chennabasappa, survived her husband and (2) Gangamma's parents are still alive. No doubt, as against Co-parceners and reversioners, a woman cannot take a full estate. But as against the claims of Govt, her claim is good - and failing either Coparceners or reversioners (which must be the case if there is to be escheat) the wife is the sole and final heir. In the circumstances, ~~it is not clear how it is made out that the parents of Gangamma are not entitled to inherit the [illegible] property~~ the Coll. is requested to [illegible] the properties can escheat to Govt.

To The Coll. of S. Kanara

5/9/42

Letter from the Government Pleader and Public Prosecutor, Mangalore.
To the Collector of South Kanara, Mangalore.
Ref.No.A, 537-42 dated 9th ~~October~~ November 42.

Escheat - Personal and Real properties - Mangalore Town-Casba Bazaar village -Deceased Channabasappa Shetty -Legal opinion -sought.

Your Ref: A3-2464-42 dated 3-8-1942.

---

1. I have scrutinised the documents. The notice givers' claim rests on the contention that the property allotted to their great grand father's brother Sangayya is the identical property R.S.No. 319 in the possession and enjoyment of the deceased which he inherited from his Grand Father Sangayya. This is base-less in the light of the clear analysis given by the Tahsildar in his last report. I should like to state in parenthesis that it would be helpful if the Tahsildar could also trace up the property allotted to the notice giver's relation Sangayya in the partition deed of 8-11-1848 and show positively its present R.S. number. Anyway the notice-givers are unable to establish any relationship to the deceased, and it is well to remember the averment in the deceased's father's will that he has no relations at all. On these facts it is plain that the properties escheat to the Crown. The threatened suit may be resisted.

2. In S.I.A.No. 42/42 in S.C. No. 61-41 I have obtained another adjournment to 15-8-42 for counter. R.I.A. 194/42 in A.S.No. 110/42 stands posted to 15-8-42 for counter. In both the Government are sought to be impleaded as legal representative of the deceased. B.S.O. 197 (5) authorises the Collector to take possession of the properties "as soon as the case comes to his notice" if the property is not in the possession of any body"; and a legal representative is defined by S.2 (11) of the Civil Procedure Code to include even an intermeddler of the estate of a deceased's person. Even though no notice has yet been published in the District Gazette and the preliminaries prescribed in B.S.O. 197 (5) have not yet been adopted, I am of opinion that as the properties are prima facie liable to escheat the Province of Madras should consent to its being impleaded as legal representatives and also be represented in Escheat Case No. 1-42 before the Sub Judge and contest the claim of the notice givers to the personal property.

3. The counter to be filed in this event would be merely: "On enquiry so far held the deceased is understood to have left no heirs. All his properties real and personal are therefore primafacie liable to escheat to the Crown. Pending the adoption of the necessary preliminaries to have the properties declared escheat to the Crown, the Province of Madras has no objection to be brought on record as the L.R. of the deceased".

4. If you think that the orders of the Board of Revenue should be obtained before taking up this stand I could obtain a longer adjournment in these two cases. All the enclosures are returned.

(True copy)

For Collector.

13.9.42

C.F. 32 (a).

Department

From (Name) M. Karamatullah, Esq., I.C.S.,

Designation Collector of S.Kanara.

Station Mangalore.

Received Registered

To

The Secretary to the Board of Revenue
Land Revenue and Irrigation,
M a d r a s.

OFFICE OF THE BOARD OF REVENUE
12294
11 SEP 1942
MADRAS

Enclosures:

Ref. C. No. A3-2464-42 dated 8-9-42. 194 .

Sir,

Escheat - Personal and real properties- Mangalore Town -Casba Bazaar village -Deceased Channabasappa Shetty- Orders solicited.

Ref: This office Ref.C.No.A3-2464-42 dated 16-8-42.

I invite the Board's attention to this office report cited above. Mangalore Sub court escheat case No. 1/42 and S.I.A. 42/42 in S.C.No.61/41 and Dt.Court R.I.A. No. 194/42 in A.S.No.110/42 have been adjourned to 15-9-42. I, therefore, request the Board's urgent orders in the matter.

For Collector.

8

Subject as at p. 7 cf

p4cf Board's Refce l 2056/42-1 of 8-9-42 — (Q)

p7 f from the Collr of S. Kanara No A. 32464/42 of 8.9.42 — (Q)

1-55 Refce l 2056/42-2 of 12.9.42

The ~~col~~ attention of the Collr is invited

p- f to the Board's refce quoted above and he is requested to obtain long adjournments in the cases ~~referred in his letter cited above until final orders are passed on in the matter~~ as the orders of the Govt. Kanara have obtained in the matter

12 SEP 1942

12/9

12/9/42

12/9

12/9

To The Collr of S. Kanara

AIC
12-9.

C.F. 32 (a).

Department

From (Name) M. Karamatullah, Esq., I.C.S.,

Designation Collector of S.Kanara.

Station Mangalore.

Received Registered

To

The Secretary to the Board of Revenue, Land Revenue and Irrigation, Salem.

OFFICE OF THE BOARD OF REVENUE
28 SEP 1942
MADRAS

Enclosures:

Ref. C.No. A3-2464-42 dated 24-9-42. 194 .

Sir,

Escheat - Personal and Real properties -Mangalore Town -Casba Bazaar village -Deceased Channabasappa Shetty- further report -submitted.

L2538

Ref: Board's Reference 1.2056-42-1 dated 8-9-42.

I consulted again the Government Pleader, Mangalore in the matter. A copy of his letter Ref.No.A.646-42 dated 19-9-42 is herein enclosed. As succession must be traced always to the last male holder, the parents of the widow have no right to the property of the deceased. Channabasappa Shetty the last male holder having died leaving no heirs, whatever, his estate escheats to the Crown.

For Collector.

25-9.

Letter-from the Government Pleader and Public Prosecutor, Mangalore.
To-the Collector of South Kanara, Mangalore.
Dated-Mangalore, 19.9.1942.
No.-Ref.No.A-646-42.

*****

Escheat - Personal and real properties - Mangalore Town-Qasba Bazaar village - Deceased Chennabasappa Chetty.

Your Ref.A5-2464-42, dated 16.9.1942.

*****

The wife or widow is "the sole and final heir" only so long as she is alive. But her estate is only a widow's estate. On her death properties are deemed to revert to the last male holder; and the principle of Hindu Law is that succession must be traced always to the last male holder. Please see Mayne's Hindu Law, X Edition page 765. Chennappa being the last male holder, and he having no heirs whatever according to the Tahsildar's report, the properties escheat to the Crown. The parents of the widow do not come in at all in the picture, nor do they advance any claim now as may be seen from the Tahsildar's report.

(True Copy)

for Collector. 25-9-42

25-9-42

13

Urgent.
Ref.C.No.A3-2464-42.

South Kanara Collector's Office,
Mangalore, 10th October 1942.

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

OFFICE OF THE BOARD OF REVENUE
2953
17 OCT 1942
MADRAS

To

The Secretary to the Board,
Land Revenue and Irrigation, ~~Madras.~~
Camp: Salem.

Sir,

ESCHEAT - Personal and Real properties - Mangalore Town --- Casba Bazaar village - Deceased Channabasappa Shetty - Further --- report - Submitted.

pp 1-3 cf This office Ref.C.No.A3-2464-42, dated 16th August 1942.

****

p 2 cf In para 7 of my report cited above, it was reported to the Board that instructions have been issued to the Tahsildar to take charge of all the real properties of the deceased, to take proper care of, or lease them, wherever necessary, and to collect the -- rent both arrears and current due in respect of them as required by the instructions contained in para 5 of B.S.O.No. 197. The Tahsildar, Mangalore, has since reported that he has taken charge of all the immovable properties of the deceased in his taluk except those leased out on mulgeni and that a sum of Rs.146-12-0 has been ------ collected on account of the rent due to the deceased and kept in -- the revenue deposits in his Sub Treasury.

p. 1179 B/C 71

2. I have now received from the Commissioner, Mangalore Municipality, 32 demand notices in respect of property tax amounting to an aggregate sum of Rs.110-9-5 relating to the properties of the -- deceased which have been taken possession of by Government. When once the Government have begun to collect the rent, they are also responsible to pay the taxes due in respect of the said properties. However, in view of the fact that no orders of the Board have been received on my report referred to in para 1 above, I solicit ----- Board's urgent instructions as to whether assessment, tax, etc., due in respect of the estate of the deceased may be paid out of the --- rent, etc., collected from it. I further solicit the Board's ---- instructions as to whether such assessment, tax, etc., due in ----- respect of the said estate may be paid in future also, even from -- the public funds in case there is no amount of rent, etc., in ----- deposit to the credit of the estate.

pp 1-3 cf

For Collector.

13.X.42

~~Draft~~ 15 (F. W. S)

12-45

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying.		[illegible] 20/+
When copied	20+	[illegible] 20+
When examined	20/X	[illegible]
When signed		
When despatched.		

SUBJECT :— Escheat - Personal and real properties - South Kanara - Mangalore Town - Casba bazaar village - Deceased Chennabasappa Shetty - proposals - Recommended.

READ AGAIN ..... 20 OCT 1942, dated ..... 194.

" " ..... 20/+ " ..... 194.

READ *ALSO* :—

pp1-5cf No. ..... From the Coll. of S. Kanara, No. A3-2464-42, dated 16-8-1942 — (A) to Govt (Q) to Coll. with a copy of G.P.'S opinion

p.9cf " ..... " Coll. of " C. A3-2464/42 Q 24-9-1942 — (Q)

" ..... " ..... " ..... " ..... 194.

Refce. ~~Order Ms.~~ ~~Resolution Rout.~~ No. l 2056/42-3, dated 20. X. 42 194.

Submitted to the Govt.

2/ According to ~~the principles of~~ Hindu Law, Succession must be traced always to the last male holder and as chennabasappa Shetty, the last male holder of ~~of~~ the property died leaving no heirs ~~whatever~~ his estate escheats to the Crown. The parents of the widow have no right to the property of the deceased ~~In the Circumstances The~~ The Board supports the Coll's proposal ~~recommends the Coll's request~~ in para 7 of his letter d 16.8.42 ~~first quoted above~~, to record the suit notice. ~~May be granted~~

p2cf

3/ The Board sees no objection to the Govt getting impleaded as the legal representative of the deceased in the suit and appeal referred to in para 8 of the Coll's letter and accordingly recommends that the draft form of the counter contained in para 3 of

pp2-3cf

C.F. 16.

of the G.P's letter Ref A. 537/42 of 9.8.42 p5cf
(Copy enclosed) may be approved.

4/ The Board also recommends ~~that~~ the Coll'r's request in paragraphs letter that he may be permitted ~~to permit him~~ to consent to the Province of Madras being ~~getting~~ impleaded as the legal representative of the deceased Chennabasappa in other similar petitions suits or appeals in which the estate is involved.

5/ The ~~Board awaits the~~ Coll'r's further report on the subject matter of the suit & appeal promised in para 8 of his letter ~~first quoted above.~~ p2cf

[illegible] & the [illegible] is awaited.

[illegible]
19/X

[illegible]

[illegible]

To
The Secy to Govt
Home Deptt

Copy to the Coll of
S. Kanara Malabar

17

Urgent. Ref.C.No.A3-2464-42.

South Kanara Collector's Office,
Mangalore, dated 17 - 10 - 1942.

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

OFFICE OF THE BOARD OF REVENUE
To S
19 OCT 1942
R.3038
MADRAS

The Secretary to the Board,
Land Revenue and Irrigation,
S a l e m.

Escheat - Personal and Real properties -Mangalore Town - Casba Bazaar village -Deceased Channabasappa Shetty -Further report - submitted.

Ref: Board's Ref.1.2056-42-2 dated 12-9-1942.

p.8 cf

Of the cases referred to in the Board's reference cited above, E.C.1/42 and S.I.A.42/42 in S.C. 61/41 on the file of the Sub Court, Mangalore stand posted to 5-11-42 and R.I.A.No.194/42 in A.S.No.110/42 on the file of the Dt.Court to 11-12-42. I request that the Board's orders on my report Ref.C.No.A3-2464-42 dated 16-8-42 may be communicated to me sufficiently before 5-11-42.

pp 1-3 cf.

For Collector.

17.x.42

Escheat - Personal and real properties; South Kanara Mangalore Town. Casba bazaar village - Deceased Chennabasappa Shetty

From the Colr of S. Kanara Ref. C. No A.3. 2464.42 Q 10.10.42

" " Ref. C. No A.3. 2464-42 Q 17.10.42

Refce l 2053/4204 Q

The Board agrees with the Colr that it is reasonable that the assessments, tax etc; due in respect of the property so far should only be paid out of the amount already collected but it is of opinion that it is proper that such dues

19 F. W. S.

Escheat. personal and real property. South Kanara. Mangalore Town. Casba bazaar village. Deceased Chennabasappa Shetty proposed for escheat.

p 13 of

From the Colr of S. Kanara Ref. A. 3. 2464. 42 Dy 10. 10. 42 (A) to Colr (B) to Govt

p 17 of

From the Colr of S. Kanara Ref. C. No A. 3 2464/42 Dy 17. 10. 42 (A) to Govt (B) to Colr

Ref Ce. l. 2056/42-4 Dy 26. 10. 42

The Colr is requested to pay Rs 110.9.5 ~~due in respect of~~ towards the demand notices ~~relating to the~~ in respect of the property tax on the estate, from the Rs 146-12-0 already collected on account of the rent due to the deceased Chennabasappa

Shetty.

2/ with refce to the ~~payment of~~ future assessment tax etc ~~in respect of the estate~~ due the Colr is informed that ~~it is proper~~ for the present ~~that~~ such dues should ~~should~~ be paid only from ~~out of~~ the income of the estate, ~~if any available till the escheat is finally decided~~.

3/ A copy of the ~~Collr~~ letter from the Colr of S. Kanara ~~[illegible]~~ C No A.3. 2464/42 of 17.10.42 is submitted to the Govt in Continuation of the Boards refce No l 2056/42.3 of 20.x.42. The Board requests that orders may be commd to the Colr before 5.11.42

P.R. 26/10.

[illegible] 26/10

P.R. 26/10.

[illegible] 26/10

P.R. 15.11.42

To the Colr of S. Kanara
The Sejha Sab Hoare
[illegible]

21

Very Urgent.
Ref.C.No.A3-2464/42.

South Kanara Collector's Office,
Mangalore, 29th October 1942.

OFFICE OF THE BOARD OF REVENUE
31 OCT 1942
MADRAS

From

M. Karamatullah, Esq., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue & Irrigation,
Salem.

Papers please
31/10

Sir,

Escheat - Personal and Real properties - Mangalore town - Casba Bazaar village - Deceased Channabasappa Shetty Orders - solicited.

Ref: This office reports, Ref.C.No.A3-2464-42, dated 16.8.1942, 24.9.42 and 9.10.42.

*****

I invite the Board's attention to this office reports cited above and request that the orders passed in the matter may be communicated to me very urgently.

For Collector.
29.X

Subject as at b.21 cf

from the Colr of S. Kanara Ref c. no. A3.2464/42
dy 29.10.42 — (a)

pp. 1 f boards refce. l 2056/42-3 dy 20.x.42 — (A)
" " " l 2056/42-4 dy 26.x.42 — (A)
Refce l. 2056/42-5 dy

~~Copy~~ Commtd to the Colr of ~~the~~ S. Kanara with refce to his letter quoted above

[illegible]
2/XI

To the Colr of
S. Kanara

F. W-3 23

Draft for approval

Escheat S. Kanara. Personal and Real properties - Mangalore Town, Carba bazar village - Deceased Chennabasappa Shetty - Orders.

pp. 3 cf

p 13 cf

p 21 cf

From the Collr of S. Kanara Ref. A3. 2464.42 Q 16.8.42.

" " A3. 2464/42 Q 10.10.42

" " Ref C. No A3. 2464/42 Q 29.10.42.

Refce. l. 2056/42.5 Q 4.11.42

~~with refce to his letter Q 16.8.42.~~ The Collr is informed that with refce to his letter d 16/8/42 the Govt have been addressed ~~in the matter for orders~~ in Boards refce l. 2056/42.3 Q 20.x.42 ~~a~~ a copy of which has already been ~~Commtd to the Collr~~ sent to him.

pp 15-16 cf

(43)

2/ The Coll is also informed that orders ~~of the Board~~ on his ~~refce~~ letter of 10.10.42 have ~~already~~ been Commtd to him in Boards refce L 2056/42-4 of 26.7.42.

3/ Copies of ~~the~~ above Boards refces ~~refd to above~~ are enclosed.

3.11.42

2/11

5/11/42

To

The Co's of

S. Kanara

with copies grps. (pp 15-16 of 2009)

(25)

GOVERNMENT OF MADRAS

Received.....1942 Registered.....1942

Abstract

Escheat - South Kanara District - Mangalore Town - Casba Bazaar village - Real properties of deceased Chennabasappa Shetty - Suit notice - Proposal to record - Draft counter - Approved. Further report called for.

HOME DEPARTMENT

G.O.Ms.No.4090 dated 3rd November 1942.

Read:

From the Board of Revenue Ref.No.1.2056/42-3 dated 20th October 1942

From the Board of Revenue Ref.No. " dated 26th October 1942.

OFFICE OF THE BOARD OF REVENUE
l3330
6-NOV 1942
MADRAS

Order:

The Government approve of the Board's recommendations (1) that the suit notice received by the Collector of South Kanara in respect of the real properties of the deceased Chennabasappa Shetty, Casba Bazaar village, Mangalore Town, South Kanara district from Sri B. Vaikunta Baliga, Vakil Mangalore, on behalf of Shivalingappa Shetty and his younger brother minor Shiva Shetty, may be recorded and (2) that the Collector may be permitted to agree to the Province of Madras being impleaded as the legal representative of the deceased Chennabasappa Shetty in the suit and appeal referred to in paragraph 8 of the Collector's letter to the Board of Revenue Ref: A3-2464-42 dated 16th August 1942 and in other similar petitions, suits or appeals in which the estate of the deceased is involved.

2. The draft form of the counter contained in paragraph 3 of the Government Pleader's letter to the Collector of South Kanara Ref.A-537/42 dated 9th August 1942 is approved.

3. The Board of Revenue is requested to submit in due course the further report referred to in paragraph 5 of its reference first read above.

(By Order of His Excellency the Governor)

C.T. Mudaliyar,
Joint Secretary to Government.

RECEIVED 10 NOV 1942

To The Board of Revenue
" Collector of South Kanara
" Finance Department.

Forwarded/By Order

Superintendent.

sv.

Subject as above.

From the Board Ref. l. 2056/42-3 dt 20.10.42 (1)
G.O. Ms No 4090 Home dt 3.11.42 (2)
Refce l 2056/42-6 dt 10.11.42

The attention of the Coll is invited to para 3 of the G.O quoted above and he is requested to submit the report called for therein at an early date.

W.U. To The Coll of S. Kan

27

[illegible]

[illegible] [illegible], [illegible]

[illegible] 3608 14 NOV 1942 MADRAS

V.E. [illegible]

[illegible], I. [illegible],
[illegible]

[illegible],
[illegible], [illegible]

Sir,

[illegible] 30 [illegible]

[illegible] pp1-4 cf
[illegible] p25 cf

pp1-3 cf [illegible]
[illegible]

[illegible]

28

Subject overleaf.

From the colt of ~~Hal~~ S. Kanara R.C.F. C. No A.3. 2464/42
9 12.11.42 @

Refce l 2056/42-7 9 16.11.42

The colts current file ~~called~~ asked for returned herewith.

16 NOV 1942

14.11.42

16/11

16/11/42

16/11

To
The colt of
S Kanara
(with his office
current file C. No 2464/42
pp 1-156, 207 to 216
and 219 to 246)

Urgent.
Ref.A.3-2464/42.

29

South Kanara Collector's Office,
Mangalore, 10th December 1942.

From

M. Karamatullah Esq., I.C.S.,
Collector of South Kanara.

To

The Secretary to the Board of Revenue,
Land Revenue and Irrigation Salem.

THE BOARD OF REVENUE
4 3934
16 DEC 1942
MADRAS

Sir,

S. Kanara

Escheats - Personal and real properties - Mangalore town - Casba bazaar village - Deceased Channabasappa Shetty - Further report - Submitted.

p25 cf Refce:- Board's Ref 1-2056-42-6, dated 10-11-42.

p2 cf I invite the Board's attention to paragraph 8 of my report Ref.A.3-2464/42, dated 16-8-42. The Government Pleader, Mangalore, has now reported after enquiry that there are only one suit and two appeals now pending in the courts, in which the estate of the deceased is involved. They are dealt with in detail below.

2. S.C. 61/41 on the file of the Subordinate Court, Mangalore. This suit was filed by one David Cutinha against the deceased for Rs. 840-5-9 in enforcement of a promissory note. The written statement in the suit was already filed by the deceased that the pro-note was spurious. The Government have now consented to be impleaded as the legal representative of the deceased in the suit. It stands posted for trial to 11-12-1942. Copies of the plaint and the written statement are enclosed.

p33-33 cf

3. A.S.Nos. 110 and 111 of 1942 on the file of the District Court, Mangalore.- Both these appeals relate to the decree in the suit C.S. No. 151/1939 on the file of the District Munsif's Court, Mangalore; which was filed by the deceased for a declaration that the mortgage dated 12-12-1935 executed by his mother in favour of the defendant was not valid or binding on him or the properties which were mortgaged. The Lower Court upheld the mortgage to the extent of Rs.954-5-6, out of a sum of Rs.2600-0-0, the mortgage amount. The defendant filed A.S.No.110/42 and the deceased A.S.No.111/42 against that decree. Copies of the appeal memos are enclosed. The Government have already consented to their being impleaded as the legal representative of the deceased in A.S.No.110/42. It still remains for Government to be impleaded as the legal representative of the deceased in A.S.111/42. The letter of the Government Pleader shows that, as the period of limitation to implead the legal representative was only 90 days, the appeal would have abated but for a petition of the claimants referred to in the suit notice of Sri B.Vaikunta Baliga, Vakil, Mangalore, to have them impleaded as the legal representative of the deceased in this appeal. As suggested by the Government Pleader, Mangalore, however, I have now instructed him to file a petition to have the Government impleaded as the legal representative of the deceased appellant and another petition to excuse the delay. Both the appeals stand posted to 11-12-1942.

p35-40 cf

For Collector.

12.12.

3-15
22/XII

F.W.S.

Subject as at p29 cf.

G.O. No Mis 4090 Home Q 3.11.42 — (A)

From the Colr of S. Kanara Ref. 43-2464/42 Q 10.12.42 — (A)

Mis. 2076 (S) Q 22-12-42

Submitted to the Govt with refce to para 3 of the G.O cited above.

RG 21/12

WS
17.12.42

To
The Secy to the Govt
Home Deptt
(with the copies of the plaint, written statt + appeal memos)
pp 31-40 cf

In the Court of the Subordinate Judge of South Kanara.

S.C.No.61/1941.

Between:-

David Cutinha — Plaintiff.

and

M. Chenna Basappa Shetty — Defendant.

Plaint under Section 26 Order VII of C.P.C.

The Plaintiff abovenamed states as follows:-

I. The Plaintiff is the son of Juao Cutinha and is a Roman Catholic Christian, of the age of 65 years, landholder, residing in Kadri village, Mangalore Town, which is his address for service of all notices and process.

II. The Defendant is the son of Lingappa Shetty and is a Hindu of Lingayath community, aged about 25 years, landholder and resides at Basavanagudi, Mangalore Town.

III (1) On 1st December 1940 the Defendant entered into an agreement with the Plaintiff whereby he agreed to sell to the Plaintiff the property patta No.14 situated in Mangalore Taluk consisting of S.F.No.55, 212/2A and 3A, 37/9, 212/9, 65/2, 37/11 and 37/12 for a price of Rs.2000/- within 6 months from the date of the agreement, namely, by the end of May '41. On the same day the defendant was paid a sum of Rs.800/- by Plaintiff on Defendant executing an on-demand promissory note for Rs.1000/- which is filed herewith, payable with interest thereon at 9% per annum. The said payment of Rs.800/- with interest was to be adjusted towards the price of the property agreed to be sold at the time of execution of the sale deed. The agreement also recites that Plaintiff paid Defendant Rs.200/- as earnest money which sum of Rs.200/- is also included in the sum of Rs.1000/- the principal sum of the promissory note. As a matter of fact this sum of Rs.200/- was not paid because the Defendant agreed to produce an ----- encumbrance certificate in respect of the property to be sold and also the title deeds relating thereto within 8 days of the agreement when the said sum of Rs.200/- was to be paid to Defendant. The agreement also recites that there was litigation -in respect of the property sold which the Defendant assured the Plaintiff he would settle before the time fixed for the sale of the property. The agreement also recites that if the litigation is not settled or if the sale deed is not executed within the time aforesaid, the Defendant is liable to repay the Plaintiff the amount paid by him to the Defendant with interest thereon.

(2) The Defendant has failed to act up to the terms of the agreement to sell in spite of Plaintiff's repeated demands and his registered notice dated 2.6.1941 to which the defendant has sent a reply containing false allegations and denying the agreement altogether as well as the execution of the demand promissory note and the payment of Rs.800/-.

(3) The Plaintiff has all along been willing to perform his part of the agreement.

(4) The Plaintiff is under the circumstances entitled to claim repayment of the amount of Rs.800/- being portion of the consideration for the promissory note with interest thereon at 9% as well as by way of damages.

(5) The cause of action for the suit arose in Mangalore on 1.12.1940 on 1.6.1941 and also on 5.6.1941 when Defendant

denied the agreement and the promissory note.

IV. The Plaintiff values the relief sought for At Rs.840.5.9 as shown below and a court fee of Rs.65.12.0 is paid herewith under Section 7(1) Schedule 1 Article 2 of the Court Fees Act.

V. The Plaintiff prays for a decree against Defendant for payment of (1) Principal sum of the promissory note Rs.800/-

(2) Interest thereon at 9% per annum from 1.12.40 up-to-date	Rs.38.5.9
(3) Cost of registered notice	Rs. 2.0.0
	Rs.840.5.9

(4) Future interest thereon at the above rate till payment;
(5) Costs of suit with interest thereon at 6% per annum from date of decree till payment; and for such other and further reliefs as to this court may seem fit under the circumstances of the case.

Verification.

List of documents filed with the plainti under Order VII Rule 14 of the C.P.Code.

1. 1.12.1940 - Agreement made between Plaintiff and Defendant.

2. 1.12.1940 - Demand promissory note executed by Plaintiff to Defendant.

3. 2. 6.1941 - Copy of notice from Plaintiff's lawyer to Defendant.

5. 6.1941 - Defendant's lawyer's reply.

(True Copy)

for Collector.

14.12.40

In the Court of the Subordinate Judge of South Kanara.
S.C.No.61 of 1941.

Between:-

David Cutinha. Plaintiff

and

M. Chenna Basappa Shetty Defendant.

Written statement of Defendant under Schedule I, or VIII Rule 1 C.P.C.

The defendant abovenamed begs to state as follows:-

1. The address of this defendant is as stated above.

2. The Plaintiff's suit is false, frivolous and vexatious and unsustainable.

3. This defendant denies that he never executed any agreement in favour of Plaintiff under date 1.12.1940 as alleged in the plaint. This defendant never agreed to sell the survey numbers referred to in the plaint of Neermarga village and further denies that the sale was to be completed within six months i.e., by the end of May 1941. This ------ defendant also denies the allegations that the plaintiff paid this defendant Rs.800/- on executing on demand promissory note for Rs.1000/-. This defendant never received any ----- amount from the Plaintiff. The pronote relied upon is not genuine and was not executed by this defendant. Both the agreement and the pronote relied on by the plaintiff are ---- spurious documents. This defendant to the post registered notice sent by the plaintiff sent a proper reply repudiating the claim now laid in the plaint.

4. Save in so far as what is admitted above all ------ allegations in the plaint shall be deemed to be denied.

Prays therefore that the suit may be dismissed with costs.

Filed on 25.7.1941. Defendant.

/True Copy/

For Collector.

In the Court of the District Judge of South Kanara.

Appeal Suit No.110/1942.

Between

Ramakrishna Prabhu — Appellant.

and

Chenna Basappa Shetty — Respondent.

On appeal from the decree and judgment of the Court of the District Munsif of Mangalore in

Original Suit No. 151/1939.

Between

Chenna Basappa Shetty — Plaintiff.

and

Ramakrishna Prabhu — Defendant.

Appeal under Section 96 Order 41 Rule 1 of the Code of the Civil Procedure of 1908.

The above named appellant being highly aggrieved by the decree and judgment of the Court of the District Munsif of Mangalore passed in O.S.No.151/1939 dated 26th day of November 1941 begs to appeal to this Court on the following among other grounds:-

1. That the appellant is the son of Moolki Keshava Prabhu, aged about 23 years, Gowda Saraswath - Brahmin, land holder, residing in Mangalore Town, which is his address for service of all notices and processes.

~~Vakil for appellant.~~

II. That the respondent is the son of Lingappa Shetty, aged about 23 years, Lingayat, land holder, residing in Basavanagudi Street, Mangalore Town.

III. Grounds of appeal.

1. That the decision of the Lower Court in so far appealed against, is against law, the weight of evidence and the probabilities of the case.

2. The Lower Court having rightly held that the mortgage document Exhibit D1 is true, and fully supported by consideration, has erred in holding that the consideration to the extent of Rs.897-3-6 alone is valid and binding on the plaintiff, and the reasons given therefor are not sound and tenable.

3. That the Lower Court having further held that the various witnesses connected with the document have spoken of the passing of consideration has erred in thinking that the debts were not binding the estate of the minor plaintiff.

4. That the Lower Court has overlooked the fact that by reason of the default of the tenants to pay - rental and the plaintiff's mother having undertaken the construction of a house, the normal income of the family would not be sufficient to meet the necessary expenses of the family.

5. That the Lower Court has erred in accepting - that the income of the family would be 500 muras of rice and Rs.1000/- in cash. The evidence discloses that - there were old genichits as well as accounts which the plaintiff has suppressed, and there is no satisfactory evidence at all that the income was being properly collected.

6. That the Lower Court having rightly held that the plaintiff's admission clearly indicated that inspite of the

prudent management by him he has had to mortgage the family properties and raise moneys after attaining majority, ought to have held that the circumstances of the family required the borrowings which were ultimately discharged by executing D1.

7. That the Lower Court has erred in thinking that the illness in the family spoken to by the defendant's witnesses could not be accepted. The Lower Court has failed to attach due weight to the circumstance that the various creditors who have paid off are absolutely disinterested witnesses and no reason has been made out for their supporting the defendant.

8. That the Lower Court has erred in attaching too great an importance to a slight discrepancy in the pronote Exhibit D4 and the evidence of DW6. Exhibit D9 as well as the recitals in Exhibit D4 fully bear out the circumstance that the promissory note D4 was executed in order to discharge the debt under Exhibit D9 which debt has not been impeached.

9. That the Lower Court ought to have held that after all the defendant who has, according to its finding, parted with hard cash had made bonafide enquiries and that was all the law requires him to do.

~~Wkil for appellant.~~

10. That the Lower Court has not attached due weight to the circumstance that the transaction was seen through after obtaining legal opinion and the consideration is also paid in the presence of the legal adviser of the family. This circumstance ought to have been accepted. This is a clear indication of the bonafides and due enquiry by the vendor.

11. The Lower Court has failed to apply the law correctly to the facts and circumstances arising in

the case.

12. That the Lower Court ought to have held that the plaintiff after he attained majority had ratified the plaint transaction as is clear from Ex D8 and D10. The evidence is clear that the plaintiff asked for more moneys from the defendant and the suit was filed because the defendant was not prepared to advance further moneys to the plaintiff.

13. That the Lower Court ought to have held that the plaintiff was estopped from questioning the binding nature of the plaint mortgage by reason of Exhibit D8 under which he made the defendant part with title deeds on the assurance that arrangements will be made for the full settlement of the plaint mortgage.

14. That the Lower Court ought to have dismissed the plaintiff's suit.

Prays therefore that in modification of the Lower Court's decree the plaintiff's suit may be dismissed with costs through-out.

Valuation.

Declaration that the mortgage in favour of the appellant is binding against the plaintiff also to the extent of Rs. 1645/10/6 out of the consideration of - Rs. 2600/- held not binding by the Lower Court.	Rs. 1645-10-6

valued for purposes of jurisdiction at Rs. 1645-10-6.

Court fee of Rs. 15/- is paid under - Article 17 cl. (3) of the Court Fees Act

(Sd) × ×

Mangalore, 27-2-1942. Vakil for applts.

True Copy

IN THE COURT OF THE DISTRICT JUDGE OF SOUTH KANARA.

Appeal Suit No. 111 of 1942.

Between:

M. Chenna Basappa Shetty. ... Appellant.
and
Ramakrishna Prabhu. ... Respondent.

On Appeal from the decree of the Dt.Munsif of Mangalore in

O. S. No. 151 of 1939.

Between: M. Chenna Basappa Shetty. ... Appellant.
and
Ramakrishna Prabhu. ... Defendant.

Memorandum of appeal under Section 96 and Order XLI, Rules 1 and 2 of Act V of 1908.

Plaintiff named above begs to appeal to the Dt.Court from the decree of the Dt.Munsif of Mangalore dated the 26th day of 1941 on the following among other grounds:-

1. That the appellant is the son of Lingappa Shetty, and is a Hindu, Lingayat by caste, aged about 23 years, residing in --- Basavangudy Street, Mangalore Town. The appellant is a landlord. His address for service of processes and notices is as above.

II. That the respondent is the son of Mulki Keshava Prabhu and is a Gowda Saraswat Brahmin, aged about 23 years, merchant by profession, residing near Ganapathy Temple, Mangalore Town.

III. 1. The decree of the lower court to the extent specified below is contrary to law and justice.

2. The lower court while rightly holding that the debts alleged to have been contracted under Exs.D 3, D 4, and D 5 and the amount alleged to have been borrowed from Venkatraya Prabhu and Nagar Srinivasa Rao were not contracted for any legal necessity and are not valid and binding on the plaintiff ought to have held that the first item of consideration for Ex.D1 namely, a sum of Rs 897-3-6 directed to be paid towards the interest on Ex.D11 is also not valid and binding on the plaintiff.

3. The lower court ought to have held that Exs.D-11 and D-12 are not valid and binding on the plaintiff.

4. The lower court ought to have held that there was no --- evidence worth the name in support of the contention that the debts referred to in Ex.D-12 were contracted for legal and justifiable necessity.

5. The lower court has entirely overlooked the fact that none of the alleged creditors referred to in Ex.D-12 have been called as witnesses and no attempt has been made to prove that there was any necessity or justification to contract the debts referred to - in Ex.D-12.

6. The lower court having rightly held that the income of the estate was considerable and would leave considerable surplus after meeting all legitimate expenses ought to have held that there was no necessity to contract any debts for the construction of the house and that there was no legal evidence that any particular debt was as a matter of fact contracted or utlised for the construction of the house.

7. Apart from the fact that there was no necessity or justification to purchase the Padavu property, there is no evidence to

prove that any portion of the surplus income was utilised for the purchase of this property and the lower court has erred in thinking that the surplus income must have been utilised for the purchase of this property.

8. The estimate of the lower court with regard to the amount spent for the construction of the house is excessive. The lower court ought to have held that the house could not have cost anything more than Rs 5000/- or Rs 6000/-.

9. The lower court erred in holding that the construction of the house was for the need and benefit of the estate. The lower court ought to have held that there was no necessity to build a house and in any event the alleged expenses for building the same, ought to have been held as not binding on the estate.

10. The lower court ought to have held that no due and reasonable enquiry has been made before lending under Ex.D-11 and that ~~D.W. 11 and that~~ D.W.-1 is not a bona-fide lender and the transaction is invalid.

11. The lower court failed to note that mere recitals in documents are not evidence of necessity and the lower court erred in relying on the recitals in Ex.D-11 and D-12 to come to the conclusion that they are valid documents binding on the plaintiff.

12. The lower court failed to note that the evidence of D.W.-1 and D.W.-7, the only witnesses to Ex.D-11 and D-12 clearly establishes that there was not even a bona fide enquiry as to necessity on the part of the lender.

13. The lower court erred in holding that there was any pressure on the estate when Plaintiff's mother executed Ex.D-11. The lower court failed to note that there is not an iota of evidence to show that any of the debts, for payment of which Ex.D-11 is purported to have been executed, were borrowed or were incurred for necessity and were binding on the estate. The lower court failed to note that the mere existence of the debt is not enough but it should be shown that the debt is binding on the estate before a fresh borrowing could be made by the guardian.

14. The lower court erred in holding that 9/26th of the amount of Rs 165/- is binding on the plaintiff.

15. The lower court ought to have held that the entire document D-1 as not valid and binding on the plaintiff and decreed the suit as prayed for by the plaintiff.

16. The appellant therefore prays that this appeal may be allowed with costs, and the plaintiffs suit decreed in full as prayed for with costs throughout.

Valuation in appeal.

Valued at the amount to the extent of which the document Ex.D-1 is held to be binding on the plaintiff. .. ...)	Rs 954-5-6.

A court-fee of Rs 107-15-0 is paid thereon under Section VII(iv)A and Article 1, Schedule I of the Court Fees Act.

Mangalore,
28- 2 -1942.

Vakil for appellant.

/True copy/

For Collector.

(20.3'42

M1
J.S
AS(8)

Escheat - ~~South Kanara~~ - Personal and real properties - South Kanara - Mangalore Town - Casba Bazaar village - Deceased Chennabasappa shetty - Report - Submitted.

pp1-3cf From the Collr of South Kanara of 16.8.42

To AS(9)

The history of the case is found in the Collr's ~~war~~ at pp 1-3 cf. The properties left by Gangamma widow of Chennabasappa Shetty comprise

para 1 p. 223 cf (B) real property worth about Rs. 75,000/- and said to be encumbered with a debt of Rs. 20,000/- and personal property estimated at Rs. 200/-. ~~The details~~ An abstract of the landed property ~~are~~ is given at A at p. 223 cf (B). The deceased Gangamma died intestate leaving no heirs. She or her pre-deceased husband Chennabasappa have no relations except the parents of Gangamma who have no right

para 2 p. 223 cf (B) to succeed to the property left by her. The properties left by Gangamma both personal and real are therefore prima facie liable to be escheated to the Govt. and the Collr has proceeded with the enquiry re the escheat of these properties.

2/- Meanwhile one Shivalingappa Shetty and his younger brother Shiva Shetty have filed a

pp 39-45 cf (B) petition thro' their pleader urging their claim to the property left by Gangamma, contending that they are divided co-parceners of the stock of Chennabasappa Shetty and delineating their descent from a common ancestor viz. Bhadraya Shetty (X). The suit notices and other enclosures received from the pleader on behalf of the

p. 224 B
(X) They have also filed a genealogical table which is at p. 47 (B).

~~of the alleged~~ claimants are pp 39-104 of (B). The originals of the documents have been scrutinised by the Tahr, Hani, and it is reported that no authenticated genealogical [illegible] has been produced by the pleader and that the other documents produced do not prove the contention of the claimants that Lingappa Shetty's father and the claimants' great grand father's younger brother are one and the same person. The main evidences produced by the notice giver in support of this contention are the deeds of partition, through which this pleader has attempted to establish the identity of Sangayya Shetty by a process of inference on the basis of the description of a family house. The contents that the property which was allotted to Sangayya Shetty by the said partition deeds is the same as the one in which the deceased Chennabasappa Shetty lived and died. But the Tahr in para 3(h) of his report has clearly disproved the contention. Further as suggested by the G.P. in para 1 of his letter of 9-8-42, the Tahr has also been instructed by the Collr to trace the property allotted to the notice giver's relation Sangayya by the partition deed and to report its R. Resurvey number. Thus it would appear that the claims of the notice giver cannot be easily conceded. The Collr agrees with the G.P. that this is a fit case for opposing the claims of the notice giver in the Civil Court. The Collr requests orders to record the suit notice. As the value of the property involved is more than Rs 10,000 of real property, perhaps the orders of Govt under B.S.O. 197-3 may be obtained.

3/ The action taken so far by the Collr in respect of the properties is as follows:

Personal property: ~~The Collr has~~ According to B.S.O. 197-5 the Dt. Magistrate should take possession of all unclaimed

para 3 p 224 (B)

pp 40 42 of (B)

para 3 p 24

p. 225 of (B)

p 5 of

para 4 p 244 of (B)

para 6 p 2 of

p 1177 : 71

A

personal property left by Hindus, Mahammadans and others who have died intestate and without heirs. If the value of the property exceeds Rs. 50/- he should report the matter to the subordinate judge or if there is no sub-judge, to the Dt. Judge who will issue orders under Clause 7 of section 16 of Regulation III of 1802. Accordingly the Coll. has taken possession of the available property, and has requested

para 2 p120 of (B) the sub-judge to adopt such measures as may be necy for the temporary Case of the movable property and to issue orders under Cl. 7 of Section 16 of Regulation III of 1802. The case has been regd by the Sub judge as Escheat

p 119 of (R) Case no 1 of 1942 and posted to 15.8.42 for claimants to prove their title. The notice givers refd to in para 2

p121 of (B) above have been asked to file their claims before the sub judge on that day in respect of the ~~immovable~~ properties of the deceased, ~~taken possession of by the Govt.~~ The G.P. Mangalore was instructed by the Coll. to

para 2 pp 245 2'50 of (B) appear before the Court on behalf of the Govt and

B Contest the alleged claims of the notice givers clients. ~~The result of the Case is not reported.~~

3

p 1 nf 4 Real property. As ~~already~~ noted in para 1 above, the real properties left by the deceased is worth about Rs. 75000/- but said to be encumbered with a debt of Rs 20000/- The details of the debts are not known. ~~As prescribed in B.S.O. 197-5~~, The Coll. has instructed the Tahr to

para 2. p243 of (B) take charge of all the immovable properties of the deceased and to send a village war list of all the properties of the deceased with extracts

from village Account No. 10. I relating to th[illegible] that the notice prescribed by the B.S.O. 197-5 may be published in the Dt. Gazette. The Collr. promises a further report ~~the~~ regarding this in due Course after publishing the gazette notice. ~~His reply~~ It may be awaited. | C

para 7 p2

5 ~~#~~ The Collr. has stated that there ~~seems to~~ are some Civil Suits pending in respect of the estate. S.C. Suit No. 61/41 on the file of the Sub Court Mangalore and A.S. No. 110/42 on the file of the Dt. Court being two of them. In these two cases the Collr. has recd. notices in S.I.A. No. 42/42 and R.I.A. 194/42 respectively to show cause why the Province of Madras represented by the Collr. may not be brought on record as the legal representative of the deceased defendant and respondent respectively. The exact nature of the suit and the appeal are not known but information about this is promised in due Course. The Collr. agrees with the G.P. that the Govt will have virtually to set up defence in these two cases when the Province of Madras is impleaded as the legal representative of the deceased. There seems to be no objection to the Govt getting impleaded as proposed by the Collr. in the ~~as~~ said appeal and suit. ~~The Collr. may be so informed.~~ The Bd may recommend this to Govt. | D

para 8 p2 cf

p. 143 cf (B)

The draft form of the Counter contained in para 3 of the G.P's letter at p. 5 cf is in order and it may be recommended to be approved. | E

The G.P has been advised to take adjournments –

p. 5 cf

in the above two cases but the date of ~~adjournment~~ adjournment is not known.

6/. The Coll. requests permission to consent to the province of Madras being impleaded as the legal representative of the deceased in other similar petititions suits or appeals in which the estate of the deceased is involved. Thus it is seen that the estate involves a lot of litigation and ~~hence~~ complication. To avoid unnecessary correspondence, the Coll.'s request may be ~~granted~~ recommended to be granted

F

"B" does not call for any further action just now.

25/8 27/8

J. S

A, C & F. may be recommended

M-F

27/8

I do not understand how the property can possibly be treated as escheat when (1) Gangamma survived her husband & was ∴ full owner of the property, (2) Gangamma's parents, her heirs, are still alive. How do you make out that they are not entitled to inherit?

RG 28/8

ASSISTANT SECRETARY.
31 AUG 1942

J.S. (i) with a book

To AS(9)

Refce: J.S's remarks and query above.

vide Sec 509 (p.365) of Hindu Law by K Raghavachi. (Private Ext) S. ce removed

According to Hindu Law, a woman's estate ~~includes both~~ can either be property in which she has absolute interest (Stridhana) ~~and~~ or property in which she has only a limited interest. The latter kind of property is defined as property inherited by a woman or property which has been allotted to her in a partition in her husband's family. In as much as the property which was in the possession of Gangamma

was inherited by her from her husband and was not her Stridhana, she had only a limited or qualified and not absolute interest in the property. A

2/ Again, according to the same law, the persons who would be entitled after the widow's death to succeed to the estate are the heirs of the last male owner and they are called reversioners. ~~Thus it would appear that the parents of Gangamma are not the reversioners of Gangamma. Further~~ According to the law of Inheritance ~~governing~~ applicable to the Mithakshara School of Hindu law, to which Gangamma and her deceased husband belonged, the order of heritable heirs is as follows:- B

(1) Sapindas, (2) Samanodakas and (3) Bandhus.

The parents of the widow are neither Sapindas nor Samanodakas nor Bandhus (of Chenna Basappa and cannot inherit the property. ~~In the circumstances it seems clear that Gangamma had no absolute interest over the property and that her parents had no right of succession to obtain the estate.~~

A & B above answer the points raised by the J.S.

J.S.

They do not. As against co-parceners & reversioners a woman cannot take a full estate. But as ayet. the claim of Govt. her claim is good - and failing either coparceners or reversioners (wh. must be the case if there is to be escheat) the wife is the sole & final heir. Govt. has no business to go usurping property.

RG 4/9

To AS(9)

A further report on the points raised by the J.S above, may be called for from the Colr. Draft Submtd at p 4 cf.

ASSISTANT SECRETARY.
5 - SEP 1942

A.S.(9)

From the Collr of S. Kanara Dt 8.9.42

To AS(9)

The Collr reports that the Cases referred to by the Collr in his letter Dt 16.8.42 viz Escheat Case No 1/42, S.I.A 42/42 in S.C 61/41 and Dt Court R.I.A. No 194/42 in A.S. No 110/42 have been adjourned to 15.9.42 and requests urgent orders of the Board in the matter. Attention is invited to the Boards Refce l 2056/42-1 Dt 8.9.42 in which the Board has called for a further report on the matter from the Collr. The attention of the Collr may be drawn to it the nature requested to obtain ~~further~~ long adjournments in the Cases as the orders of Govt have to be obtained

Draft Submitted at p 8 cf. After issue it may be submitted to J.S. for perusal.

Issue at once & submit the file to J.S

12/9

J S

File Submitted to J.S for perusal after issue of the draft (at p 8 cf)

12/9

MJ S AS(9)

X p 9 cf

ASSISTANT SECRETARY.
16 SEP 1942

From the collector of S. Kanara Dt 24.9.42

To AS(9)

The Collr's letter is in reply to the Board's refce Dt 8.9.42. He has consulted the G.P. Mangalore in the matter and has enclosed a copy of his opinion on the matter. According to the G.P, the widow Gangamma is the sole and final heir only so long as she is alive. Her estate is only a widow's estate and on her death, the properties are deemed to revert to the last male holder, according to Hindu law.

8 l2056

Thus Chennabasappa being the last male holder, and he having ~~[illegible]~~ no heirs whatever, the properties escheat to the Crown. The G.P. also states that the parents of the widow have no right at all to the property nor have they advanced any claim. p11 cf

Orders are solicited on the notes at pp1-5 nf

Tolee read from x at p7 nf

W8 T9

b/30/9.

mey 30/9

J.S

~~[illegible]~~

The G.P. refers to Hindu law alone. I do not remember coming across any kind of law of escheat in the manuals of Hindu law. If you can find a discussion of the law of escheat acc. to Indian law & custom, please put it up. If you cannot, & escheat is (as I rather think) an innovation imported from the West, please note further on which system of inheritance - Hindu or Western - is supposed to apply in the peculiar circumstances. - As far as I know, there never was escheat of 'kudivaram', because the ruler confined himself to the 'molvaram', and 'kudivaram' lapsed altogether if there was no occupier, to be revived with the next occupation. If that is so, neither 'molvaram' nor 'kudivaram' could escheat, & Hindu law just does not apply.

RG 1/10.

Joint Secy
2 - OCT 1942

ASSISTANT SECRETARY.
5 - OCT 1942

This has come to me by mistake [illegible]

V.E mey 5/10.

JS

AS(2) with a [illegible]

To AS(2)

J.S's remarks above.

Hindu Law recognises the right of the Crown to succeed to the estate as the ultima haeres on failure of heirs ~~to the last male holder~~. It lays down that the Crown's right to take the property accrues on its showing that there is no one in existence who is in the line of heirs under the Hindu Law and that mere blood relationship does not entitle a person to succeed in preference to the Crown. It also lays down that if the property

vide sec 433 (page 341 V of Hindu Law N K K[illegible] (p. [illegible])

X 2050

is the Stridhana of a widow, then it escheats to the Crown only in the absence of her blood relation. In the present case, the property is not the stridhana of Gangamma and hence on her death, the properties escheat to the Crown, there being no heirs to the last male holder Chennabasappa Shetty.

Orders are solicited on the notes at pp 1-5 N.F.

MS
6/10

It is also seen from para 434 of the second edition of the Hindu Code by Dr Gour that the ancient Hindu law (mitakshara) also recognised & dealt with escheat and that it is not an importation from the west.

p 1051 Books at pur p

As regards the widow's rights of inheritance please also see para 434 of the Hindu Law. On the failure of the son, son's son or son's son's son the widow succeeds ~~[illegible]~~ but as one who has a limited interest. On her death the person entitled to succeed is the then nearest heir of her husband and not her own heir. She is not the sole or final heir. Her father & mother are not reversioners to her husband's property. Mere blood relationship does not entitle a person to succeed in preference to the crown.

p 214 Books

para 453 p 341 Pk pt 1 p

From X at p 8 N.F

MAS
10/10/42

J.S
M.1

Pages 1 to 5 N.F. may be perusal and A, C to F approved.

KG 13/10

M.1
16/10

Joint Secy
17 OCT 1942

ASSISTANT SECRETARY.
19 OCT 1942

As(I)

To As(I)

Draft Submt below

MS
19/x

MAS
20/10

M 1
J S
AS (9)
p 13 cf
p 17 cf

From the Collr of S. Kanara Dy 10.10.42.
From the Collr of S. Kanara Dy 17.10.42

To AS (9)

In para 7 of his report Dy 16.8.42, the Collr reported that he had instructed the Tahr to take charge of all the real properties of the deceased Chennabasappa to take proper care of or to lease them whenever necy and to collect the rent both arrears and current due in respect of the properties. The Collr has now reported that the properties were taken possession of, except those leased out on mulgeni, and that Rs 146-12-0 has been collected on account of the rent due. He also reports that 32 demand notices in respect of property tax amounting to Rs 110-9-5 relating to these properties have been recd and states that when once the Govt have begun to collect the rent, it is ~~contingent~~ necessary on their part to pay these dues also. It appears reasonable that the assessments, tax etc due so far should be paid out of the amount already collected. But the Collrs proposal that future dues that may accrue ~~can may also~~ should be paid out of public funds in case there is no amount of rent etc in deposit to the credit of the estate, ~~is not advisable~~ can not now be accepted as ~~the~~ even the escheat notification under B.So 197(5) inviting ~~applies~~ claims has not yet been published and it is not known what ~~litigation~~ claims may crop up. Already the estate involves a lot of litigation and ~~to~~ to encroach upon ~~the~~ public funds for paying dues in respect of an estate over which the Govt have not asserted their rights ~~full ownership~~, is not advisable. It appears proper that assessment, tax etc which are a legitimate liability upon the estate, ~~may be asked to~~ should be paid only out of the income of the estate, if any available till the escheat is finally [illegible]

A Ahk

Sarao 2 dd pp 1-2 cf

Yes, for the B present.

2/ Pl. see the Collr's letter at p 17 cf. A copy of

11

L 2056

Yes. C | the letter may be submitted to the Govt in Continuation of the Board's refce of 25 10 42 & orders requested before 5-11-42

pp 15-16 cf

A B & C may be approved

J. S.

M-1 23/10/42

From p. 10. N.F.

ASSISTANT SECRETARY, 26 OCT 1942

Joint Secy 24 OCT 1942

24 42

To AS (9)

Draft Submitted below

26/10

Revise draft.

From the Collr of S. Kanara of 29. 10. 42 & AS's orders on it.

To AS (9)

The Collr requests urgent orders on his reports quoted in his ~~refce~~ letter. Orders on his ~~interim~~ ~~or interim~~ last report of 10.10.42 have already been Commd to the Collr in Bds refce of 26.10.42. Evidently the Board's refce ~~Crossed~~ and the Collrs letter Crossed each other. However a copy of it may perhaps be sent to the Collr. The orders of Govt are awaited on the Collrs original refce of 16.8.42 The Board has already requested Govt to Communicate their orders to the Collr before 5.11.42. ~~No further action is necy on this Govt~~

p 21 cf

p 13 cf

p 1-20 cf

yes

2/11

pp 1-3 cf

p 3 p 10 cf

31/x

L 2056

To A.S. (C)

Draft submitted below

2.11.42

Draft appd by A.S.

G.O. No. Ms 4090 Home Dt 3.11.42 p25 cf.

The Govt have approved the recommendations of the Board contained in its refce Dt 20.10.42. No action seems necy on this. The Collr's attention may be drawn to para 3 of the G.O and he may be asked to expedite the submission of the report called for therein. Draft submitted at p25 cf.

10.11.42

From the collr of S. Kanara Ref A.3.2464/42 - 20.10.42 p29 cf

To J.S

The collr in para 8 of his letter Dt 16.8.42 reported that there were some civil suits pending in respect of the deceased Chennabasappa shetty, two of them being S.C. Suit No 61/41 (Sub ct. Mangalore) and A.S. No 110/42 (Dt. court). He also requested ~~orders~~ orders whether ~~that~~ the Province of Madras represented by the Collr might be impleaded as the legal representative of the ~~deceased~~ Chennabasappa in the said suit and appeal and promised to send in due course a report regarding the exact nature of this ~~said~~ suit and appeal. In G.O. No Ms 4090 Home Dt 3.11.42 (para 1) the Govt permitted the Collr to agree to the Province of Madras being impleaded as the legal representative of the deceased chennabasappa shetty in the suit and appeal referred to above and also in other similar petitions, suits or appeals in which

para 1 p 25 cf the estate is involved. They also requested the Board to submit the further report about the exact nature of the suit O.S. 61/41 Subct. Mangalore and A.S. 110/42 Dt. Court. Accordingly the Collr was

p 25 cf requested to submit the report promised in para 8 of his

p 29 cf letter of 16.8.42 at an early date and the Collr has now submitted it.

2/ In ~~para 2 of the~~ his report, the Collr has stated

para 1 p 29 cf that there are only one suit and two appeals now pending in the Courts, in which the estate of the deceased Chennabasappa Shetty is involved. They are S.C. 61/41 ~~and A.S. 110~~ on the file of the Sub-Court, Mangalore and A.S. 110/42 and 111/42 on the file of the Dt. Court, Mangalore. The Collr has already impleaded the Govt as the legal representative of the deceased in S.C. 61/41 and A.S. 110/42 and he has instructed the G.P. Mangalore to do so in respect of A.S. 111/42 also. The exact nature of

p 22 cf the suit 61/41 is given in para 2 of the Collrs letter and those of A.S. 110 and 111 of 1942 are given in para 3 of the letter. He has also submitted a copy of the

pp 31-33 cf plaint and the written statt in respect of the suit and

pp 35-40 cf the appeal memos in respect of the two appeals. A copy of the ~~memo two~~ Collrs letter may be submitted to the Govt with refce to para 3 of

p 25 cf G.O. Mis No 4090 Home of 3.11.42.

Draft submitted at p 30 cf.

17.12.42

ASSISTANT SECRETARY.
22 1942

RG 21/12

B.P.No. Mis 2076 (5)
Dated 22.12.42

Single Member
Two Members
Full Board

I-A	D.D.S & L.R	Asst. Secretary L.R	Irrgn	C.T	Excise	J.S.	Secy.	M 4	M 3	M 2	M 1

Open file seen by
Final draft seen by
Now circulated to

Initials

Passed for record.

Secretary.

Jt.Secretary

A.S.(L.R.)

A.S.(Irrgn)

A.S.(Excise.

A.S.(Comml.Taxes)

D.D.S.& L.R

I-A

30.12

29.12

Note -Entries not required to be scored out.